

REMARKS

This is a response to the final Office Action dated February 24, 2005.

Claims 1, 3, 11-13, 15-19 and 27 have been rejected under 35 U.S.C. 102(a) as being anticipated by the 3GPP document. The 3GPP document provides a discussion at page 19, section 4.2.4 of rate matching which applies repetition and puncturing of different transport channels. Specifically, it is stated that for each combination of rates of different transport channels, a "puncturing/repetition factor" is assigned to each transport channel. Furthermore, section 4.2.4.1 of this reference refers to a factor P, which denotes a maximum amount of puncturing allowed (e.g., 0.2 for downlink and uplink). Accordingly, this passage regarding a puncturing/repetition factor simply provides no disclosure or suggestion whatsoever of a transmitter or receiver, or method of operating a transmitter or receiver, which involves selecting a rate matching pattern depending on an associated bit deletion or repetition pattern that is selected to ensure that deleted or repeated bits of a data block are not required to enable all bits from a digital input to be reconstructed, as set forth in independent claims 1, 20, 27 and 28.

Section 4.2.4 of the reference further states that one criterion for a set of puncturing/repetition factors for different transport channels is fulfilling a desired transmission quality requirement. From this, the Examiner asserts that a quality of transmission requirement can only be achieved by ensuring that none of the required bits for error correction coding are lost, that is, by ensuring that sufficient bits to reconstruct the original data exist at the decoder. Applicant respectfully submits that this conclusion could only be made with the use of hindsight gained impermissibly from the present invention. Generally, the use of hindsight knowledge

derived from the applicant's own disclosure to support an obviousness rejection under 35 U.S.C. § 103 is impermissible. See, for example, W. L. Gore and Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

Furthermore, section 4.2.4 of the reference explains that the criteria for fulfilling a desired transmission quality requirement for each transport channel means that required transmission power to meet quality requirements for all transport channels should be as low as possible. Thus, the reference by its own words explains that it is only concerned with keeping transmission power as low as possible. This could hardly be said to be a teaching to the person of ordinary skill in the art to select a rate matching pattern depending on an associated bit deletion or repetition pattern that is selected to ensure that deleted or repeated bits of a data block are not required to enable all bits from a digital input to be reconstructed.

Withdrawal of the rejection is therefore respectfully requested.

Claims 4, 20, 22, 23, 25, 26 and 28 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the 3GPP document in view of Okumura et al. Dependent claim 4 is allowable at least by virtue of its dependence on claim 1, which is allowable for the reasons discussed above. Similarly, dependent claims 22, 23, 25 and 26 are allowable at least by virtue of their dependence on claim 20. Moreover, Okumura et al. cannot cure the deficiencies of the 3GPP document since the reasoning in applying the 3GPP document has already been traversed in connection with the rejection to claims 1, 3, 11-13, 15-19 and 27 above.

Withdrawal of the rejection is therefore respectfully requested.

Claims 14, 29 and 31 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the 3GPP document in view of U.S. patent 5,978,365 to Yi. Yi is cited by the Examiner as

showing puncturers 1405A, 1405B that provide puncturing matrixes. However, the Examiner has not indicated how each of the features of the claims are disclosed or suggested by the prior art. The Office has therefore not met its burden to set forth a *prima facie* conclusion of obviousness. MPEP 2142. In particular, claims 14, 29 and 31 recite more than a puncturing matrix. Claim 14, for example, sets forth that a rate matching pattern forms a matrix including change bits that indicate a change of corresponding bits of interleaved words within a data block, wherein each row of the matrix includes a maximum of one of the change bits. The Examiner is respectfully requested to cite where the identified feature is disclosed or suggested by the prior art, or to withdraw the rejection.

Furthermore, regarding claims 29 and 31, the cited references fail to disclose or suggest a rate matching pattern that includes change bits for deleting or repeating bits of a data block, where the change bits are offset with respect to each other along adjacent columns of a matrix of the rate matching pattern.

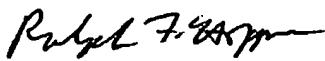
Withdrawal of the rejection is therefore respectfully requested.

Claims 21, 24, 30 and 32 have been rejected under 35 U.S.C. 103(a) as being unpatentable over the 3GPP document and Okumura in view of Yi. Claim 21 corresponds to claim 14 and is patentable for the reasons discussed above. Dependent claim 24 is allowable at least by virtue of its dependence on claim 20. Claim 30 and 32 correspond to claims 29 and 31 and are patentable for the reasons discussed above. Moreover, as discussed above, Yi's use of a puncturing matrix does not amount to a disclosure or suggestion of Applicant's claimed features.

Withdrawal of the rejection is therefore respectfully requested.

In view of the foregoing remarks herein, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance be issued. If the Examiner believes that a telephone conference with the Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,


Ralph F. Hoppin
Registration No. 38,494

Scully, Scott, Murphy & Presser
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:RH

-11-

H:\work\1472\16860X\Amend\16860X.am2.doc

BEST AVAILABLE COPY